

November 20, 2015

APPEAL

CC Docket No 02-6

E-Rate Appeal Filed Electronically via the FCC ECFS System

Marlene H. Dortch, Secretary

Federal Communications Commission

Office of the Secretary

445 12th Street SW

Washington, DC 20554

Information

Applicant Name:	Southwest Dubois County School Corporation
Billed Entity Number:	130671
Funding Year:	2015
Form 471 Application:	1040316
Funding Request Number:	2834309
Service:	Category 2 – Internal Connections
Service Provider:	NSG Data – LLC (SPIN:143045297)

To Whom It May Concern:

This is an appeal of the denial of the Administrator's Decision on Appeal – Funding Year 2015 – dated October 9, 2015, in connection with FRN 2834309 on 471 Application Number 1040316. A copy of the Administrator's Decision on Appeal is attached hereto as **(Exhibit A)**.

Text Being Requested for Review:

- USAC has determined, that at the time you submitted your FCC Form 471 application you did not have a contract or a legally binding agreement.

Appeal Review Request:

In response to the USAC Appeal Letter for FRN 2834309 **(Exhibit B)** Southwest Dubois County School Corporation is appealing USAC's denial of FRN 2834309, on the premise that the signed and dated agreement associated with the services/equipment provided by this FRN is dated three days after the 471 was certified, which resulted in the FCDL for FRN 2834309 **(Exhibit C)**. Further clarification and explanation of the existence of the Agreement that was in place on April 10, 2015, the date that the Form 471 was certified for FRN 2834309 is provided by the April 10, 2015, that we did not have a signed contract, but we demonstrate through the explanation and

associated attachments (**Exhibit G**) that a selection had been made and a legally binding agreement had been reached with NSG service provider.

We believe PIA may have been confused by the term Agreement on the contract between NSG and Southwest Dubois CSC. (**Exhibit E**)

- 1) The NSG bid document (**Exhibit D**) being received on April 8, 2015,
- 2) Evaluation of the bid proposal by the district,
- 3) Awarding the bid and acquiring the signature of the school district representative awarding the bid – 4/10/2015
- 4) Sending the Item 21 Template to NSG to complete – return and incorporate into the 471 filing. 4/10/2015
- 5) NSG returns the Item 21 template to the E-Rate Consultant – 4/10/2015
- 6) Review of Item 21 Template and Funding Application Draft (**Exhibit H**)
- 7) Signed Agreement with NSG dated Monday, April 13, 2015 (**Exhibit D**) – The delay in signature date was created due to the activity that needed to be completed prior to the close of the FY 2015 Form 471 filing window (April 16, 2015)

A copy of the FCC Form 471 - #1040316 (**Exhibit F**) is attached that states the date of certification Friday, April 10, 2015.

The School Corporation believes according to the attached Exhibits, USAC, while it upheld a guideline, erred in denying support for School Corporation and believes special consideration to the attached Exhibits clearly show there is no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to core program requirements. Furthermore, the School Corporation believes that the denial of E-Rate funds for the full funding year inflicts undue hardship and an approval for FRN 2834309 would better serve the public interest.

Attached documents which support The Request for Review:

- **Exhibit A** – USAC Administrator's Decision on Appeal
- **Exhibit B** – Copy of Letter of Appeal to USAC
- **Exhibit C** – Copy of FCDL – FRN 2834309
- **Exhibit D** – Copy of NSG Bid – Southwest Dubois Category 2
- **Exhibit E** - Copy of NSG Signed Agreement with Southwest Dubois
- **Exhibit F** – Copy of the FCC Form 471 #1040316
- **Exhibit G** - Email -Review of Item 21 Template and Funding Application Draft

After review of this appeal I respectfully request the FCC find that Southwest Dubois County School Corporation complied with the FCC's competitive bidding requirements

"Competitive bidding requirements serve as a central tenet of the E-rate program, as stated in the FCCs decision In the Matter of)) Requests for Waiver) of the Decision of the) Universal Service Administrator by)) Adams County School District 14) File Nos. SLD-425151, 425211, 425303, Commerce City, Colorado, et al.) 425352, 426285, et al.) Schools and Libraries Universal Service) CC Docket No. 02-6 Support Mechanism) ORDER Adopted: March 22, 2007 Released: March 28, 2007."

for the FRN at issue, and it is in the public interest to provide the requested relief. Southwest Dubois County School Corporation serves 1,778 students and their parents and school patrons. The loss of funding for FRN will reduce the ability of the school district to create and improve the broadband capabilities of the district, specifically reducing the cabling and connectors to be

installed in Southridge Middle School, thus reducing curricular delivery to students at Southridge Middle School. Specifically, Southwest Dubois County School Corporation request the FCC find that Southwest Dubois County School Corporation's acquiring the signed agreement for Category 2 equipment/services, albeit dated 3 days after the Form 471 was certified, but having a legally binding agreement in place on April 10, 2015, does not diminish the primary tenet of the E-Rate program, that of meeting the competitive bidding requirements.

Reflecting on Bishop Perry Middle School, the FCC stated File Nos. SLD-487170, et al., CC Docket No 02-7, Order, 21 FCC Rcd 5316-17, 5319-20, paras 2,9 (2006) Bishop Perry Middle School):

"Bishop Perry Middle School, under certain circumstances, rigid adherence to certain E-Rate rules and requirements that are "procedural" in nature does not promote the goals of section 254 of the Act – ensuring access to discounted telecommunications and information services to schools and libraries – and therefore does not serve the public interest."

In **(Exhibit G)** the April 10, 2015 email between Bret Lewis –Erate Consultant and Karen Kippenbrock – 5 Star Tech consultant for Southwest Dubois CSC – NSG is identified as the selected service provider. Bret Lewis – typed April 13, 2015, when he meant April 10, 2015 – that was a clerical error on his part. The information from Bret Lewis indicates on 4/10/2015 that he would "certify the application today" meaning 4/10/2015. The response from Karen Kippenbrock – "Go for it Bret. Thanks" indicates agreement with the information contained in the email and that filing should occur.

Southwest Dubois County School Corporation asks the FCC to reinstate that the funding commitment of \$17,199.00 be fully restored to FRN 2834309.

Thank you for your time and consideration. You are hereby authorized to contact our E-Rate Contact, Bret Lewis, if you have questions concerning this appeal or require additional information. His contact information is as follows:

Authorized person who can best discuss this Appeal:

Bret Lewis

Phone: (765) 918-0370

AdTec, Inc

PO Box 223

New Market, IN 47965

Fax: (317-708-3701)

Email: bret@adtecerate.com

(preferred mode of contact)

Authorized Signature:



Name of Signer : Mike Eineman – Superintendent – Southwest Dubois County School Corporation